

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

IN RE:	)	Chapter 11
	)	
W.R. GRACE & CO., et al.,	)	Case No. 01-1139(JKF)
	)	
Debtors.	)	Jointly Administered
	)	
_____	)	<b>Related Docket Nos.: 26154, 26155,</b>
		<b>26289, and 26489</b>

**NOTICE OF APPEAL AND PROTECTIVE OBJECTIONS OF BNSF RAILWAY  
COMPANY IN ACCORDANCE WITH BANKRUPTCY RULE 9033**

PLEASE TAKE NOTICE that BNSF Railway Company (“BNSF”), appeals under 28 U.S.C. § 158(a) from:

I. the Memorandum Opinion Regarding Objections To Confirmation Of First Amended Joint Plan Of Reorganization And Recommended Supplemental Findings Of Fact And Conclusions Of Law (entered January 31, 2011) (Supplemental Findings) [Docket Number 26154];

II. the Recommended Findings Of Fact, Conclusions Of Law And Order Regarding Confirmation Of First Amended Joint Plan Of Reorganization As Modified Through December 23, 2010 (entered January 31, 2011) (Findings) [Docket Number 26155];

III. the Order Clarifying Memorandum Opinion and Order Confirming Joint Plan as Amended Through December 23, 2010 (entered February 15, 2011) (Clarifying Order) [Docket No. 26289]; and

IV. the Memorandum Opinion and Order Granting in Part and Denying in Part Motion of BNSF Railway Company for Reconsideration of Memorandum Opinion Regarding Objections to Confirmation of First Amended Joint Plan and Recommended Supplemental Findings of Fact and Conclusions of Law and Order Regarding Confirmation of Joint Plan as Modified Through December 23, 2010 (entered March 4, 2011) (Reconsideration Order, and together with the

Supplemental Findings, Findings and Clarifying Order, the Confirmation Orders) [Docket Number 26489].

In addition, BNSF objects, in accordance with Federal Bankruptcy Rule 9033 to the Confirmation Orders.

On February 23, 2011, the U.S. District Court for the District of Delaware entered an Order providing:

Plan Proponents have stipulated that, and this Court hereby orders that, Rule 9033 objections need not be filed, and all objections that may be or could have been asserted in Rule 9033 objections are preserved and may be argued as part of the appellate briefing filed pursuant to Bankruptcy Rules 8001 et seq. To the extent any party nevertheless chooses to file Rule 9033 objections on or before February 28, 2011, both that party's objections and Plan Proponents' responses may be filed in summary fashion, briefly stating the bases for the respective objections and responses, with detailed briefing and support reserved for the appellate briefs regarding the Confirmation Order to be filed with this Court.

In accordance with and in reliance upon the February 23 Order, BNSF need not file any objection to preserve its rights under Federal Bankruptcy Rule 9033. Nevertheless, on February 28, 2011, BNSF filed protective objections to the Supplemental Findings, Findings and Clarifying Order [Docket Number 26429]. BNSF incorporates those objections.

In reliance upon the February 23 Order, and solely for protective purposes and without limiting the foregoing, BNSF objects to all findings of fact and conclusions of law contained in the Confirmation Orders that relate to a non-core issue and/or the objections interposed by BNSF to the confirmation of the Joint Plan. BNSF reserves the right, pursuant to the February 23 Order, to raise objections to the Reconsideration Order.

The names of all parties to the Order appealed from and the names, addresses and telephone numbers of their respective attorneys are as follows:

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